

## LIMITS ON PRIVATE ENFORCEMENT OF UNFAIR BUSINESS COMPETITION LAWS. INITIATIVE STATUTE.

### ARGUMENT in Favor of Proposition 64

#### PROTECT SMALL BUSINESSES FROM FRIVOLOUS LAWSUITS—CLOSE THE SHAKEDOWN LOOPHOLE

There's a LOOPHOLE IN CALIFORNIA LAW that allows private lawyers to file frivolous lawsuits against small businesses even though they have no client or evidence that anyone was damaged or misled. Shakedown lawyers "appoint" themselves to act like the Attorney General and file lawsuits on behalf of the people of the State of California, demanding thousands of dollars from small businesses that can't afford to fight in court.

Here's the little secret these lawyers don't want you to know:

**MOST OF THE TIME, THE LAWYERS OR THEIR FRONT GROUPS KEEP ALL THE MONEY!**

*No other state allows this.* It's time California voters stopped it. For years, Sacramento politicians, flush with special interest trial lawyer money, have protected the lawyers at the expense of California consumers, taxpayers, and small businesses.

*Yes on Proposition 64 will stop thousands of frivolous shakedown lawsuits like these:*

- Hundreds of travel agents have been shaken down for not including their license number on their website.
- Local homebuilders have been sued for using 'APR' in advertisements instead of spelling out 'Annual Percentage Rate.'

#### HERE'S WHAT ACTUALLY HAPPENED TO ONE SMALL BUSINESS VICTIM:

"My family came to this country to pursue the American Dream. We work hard to make sure our customers like the job we do. One day I got a letter from a law firm demanding \$2,500. The letter didn't claim we broke the law, just that we might have and if we wanted to stop the lawsuit, we needed to send them \$2,500. I called a lawyer who said it would cost even more to fight, so we sent money even though we'd done nothing wrong. It's just not right."

Humberto Galvez, Santa Ana

*Here's why "YES" on Proposition 64 makes sense:*

- *Stops these shakedown lawsuits.*
- *Protects your right to file a lawsuit if you've been damaged.*
- *Allows only the Attorney General, district attorneys, and other public officials to file lawsuits on behalf of the People of the State of California to enforce California's unfair competition law.*
- *Settlement money goes to the public, not the pockets of unscrupulous trial lawyers.*

"Public Prosecutors have a long, distinguished history of protecting consumers and honest businesses. Proposition 64 *will give those officials the resources they need to increase enforcement of consumer protection laws* by designating penalties from their lawsuits to supplement additional enforcement efforts, above their normal budgets."

Michael D. Bradbury, Former President  
California District Attorneys Association

*Vote Yes on Proposition 64: Help California's Economy Recover*

"Frivolous shakedown lawsuits cost consumers and businesses millions of dollars each year. They make businesses want to move to other states where lawyers don't have a legal extortion loophole. When businesses leave, taxpayers who remain pick up the burden. Proposition 64 closes this loophole and helps improve California's business climate and overall economic health."

Larry McCarthy, President  
California Taxpayers Association

*Vote Yes on Proposition 64. Close the frivolous shakedown lawsuit loophole.*

RAY DURAZO, Chairman  
Latin Business Association

MARTYN HOPPER, State Director  
National Federation of Independent Business

MARYANN MALONEY  
Citizens Against Lawsuit Abuse

### REBUTTAL to Argument in Favor of Proposition 64

Small business???

The Associated Press reported:

"Here are some of the companies that have made donations to the campaign to pass Proposition 64 and some of the lawsuits that have been filed against them under California's unfair competition law:

- Blue Cross of California. Donation: \$250,000. Unfair competition suits have accused the health care company of . . . discriminating against non-company emergency room doctors and underpaying hospitals.
- Bank of America. Donation: \$100,000. A jury found the bank misrepresented to customers that it had the right to take Social Security and disability funds from their accounts to pay overdraft charges and other fees.
- Microsoft. Donation: \$100,000. Suit . . . accuses the computer giant of failing to alert customers to security flaws that allow hackers to break into its computer systems by gaining some personal information.
- Kaiser Foundation Health Plan. Donation: \$100,000. One suit accused the health care provider of false

advertising for claiming that only doctors, not administrators, made decisions about care . . .

- State Farm. Donation: \$100,000. A group of victims of the 1994 Northridge earthquake accused the company of reducing their quake coverage without adequate notice. State Farm reportedly was forced to pay \$100 million to policyholders."

Quoting the Attorney General's senior consumer attorney in the Department of Justice, the *Los Angeles Times* reports: "The initiative 'goes unbelievably far,' . . . 'Throwing the baby out with the bathwater is not the best thing' . . . the (current) law has been used successfully to protect the public from polluters, unscrupulous financing schemes and religious discrimination."

ELIZABETH M. IMHOLZ, Director  
Consumers Union, West Coast Office

SUSAN SMARTT, Executive Director  
California League of Conservation Voters

DEBORAH BURGER, RN, President  
California Nurses Association